

David W. Axelrod, OSB #75023
E-mail: daxelrod@schwabe.com
Devon Zastrow Newman, OSB #014627
E-mail: dnewman@schwabe.com
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center
1211 SW 5th Ave., Suite 1500-2000
Portland, OR 97204
Telephone 503-222-9981
Fax 503-796-2900

Harold A. Barza, *admitted pro hac vice*
E-mail: halbarza@quinnemanuel.com
Tigran Guledjian, *admitted pro hac vice*
E-mail: tigranguledjian@quinnemanuel.com
Quinn Emanuel Urquhart & Sullivan, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone (213) 443-3000
Fax (213) 443-3100

Attorneys for Plaintiffs/Counter-Defendants Seiko Epson
Corporation, Epson America, Inc., and Epson Portland Inc., and
Counter-Defendant Herbert W. Seitz

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION


SEIKO EPSON CORPORATION,
a Japan corporation; EPSON AMERICA,
INC., a California corporation; and EPSON
PORTLAND INC., an Oregon corporation,

Plaintiffs,

v.

GLORY SOUTH SOFTWARE
MANUFACTURING INC., a California
corporation; BUTTERFLY PRINT IMAGE
CORP. LTD; a Hong Kong company; INK

Civil No. 06-236-BR

~~[PROPOSED]~~ 
ORDER REGARDING OCTOBER 3, 2011
CONTINUED HEARING ON MOTIONS
FOR SUMMARY JUDGMENT AND
NINESTAR'S MOTION TO AMEND ITS
ANSWER

LAB (H.K.) CO. LTD, a Hong Kong company; **NECTRON INTERNATIONAL, LTD.**, a Texas company; **MIPO INTERNATIONAL LTD.**, a Hong Kong company; **MIPO AMERICA, LTD.**, a Florida company; **NINE STAR IMAGE CO. LTD**, a China company; now known as **NINESTAR TECHNOLOGY CO., LTD.**, a China company; **NINE STAR TECHNOLOGY COMPANY, LTD.**, a California company; **TOWN SKY INC.**, a California corporation; **ZHUHAI GREE MAGNETO-ELECTRIC CO. LTD.**, a China company; **MMC CONSUMABLES INC.**, a California company; **TULLY IMAGING SUPPLIES LTD.**, a Hong Kong company; **INKJETWAREHOUSE.COM INC.**, a Connecticut corporation; **WELLINK TRADING CO., LTD.**, a China company; **RIBBON TREE (MACAO) TRADING CO., LTD.**, a China company; **RIBBON TREE (USA) INC.**, dba **CANA-PACIFIC RIBBONS INC.**, a Washington company; **APEX DISTRIBUTING INC.**, a Washington company; **ARTECH GMBH**, a German company; **INK TEC CO. LTD.**, a Korea company; **INK TEC AMERICA CORPORATION**, a Maryland company; **DATAPRODUCTS USA LLC**, a California limited liability corporation; **GERALD CHAMALES CORP.**, dba **RHINOTEK COMPUTER PRODUCTS**, a California corporation; **MASTER INK CO., LTD.**, a Hong Kong company; **ACUJET U.S.A., INC.**, a California company; **RHINOTEK COMPUTER PRODUCTS, INC.**, a Delaware corporation,

Defendants.

SEIKO EPSON CORPORATION, a Japan corporation; **EPSON AMERICA, INC.**, a California corporation; and **EPSON PORTLAND INC.**, an Oregon corporation,
Plaintiffs,

Civil No. 06-477-BR

v.

GLORY SOUTH SOFTWARE MANUFACTURING INC., a California corporation; **BUTTERFLY PRINT IMAGE CORP. LTD.**; a Hong Kong company; **INK LAB (H.K.) CO. LTD.**, a Hong Kong company; **NECTRON INTERNATIONAL, LTD.**, a Texas company; **MIPO INTERNATIONAL LTD.**, a Hong Kong company; **MIPO AMERICA, LTD.**, a Florida company; **NINE STAR IMAGE CO. LTD.**, a China company; now known as **NINESTAR TECHNOLOGY CO. LTD.**, a China company; **NINE STAR TECHNOLOGY COMPANY, LTD.**, a California company; **TOWN SKY INC.**, a California corporation; **ZHUHAI GREE MAGNETO-ELECTRIC CO. LTD.**, a China company; **MMC CONSUMABLES INC.**, a California company; **TULLY IMAGING SUPPLIES LTD.**, a Hong Kong company; **INKJETWAREHOUSE.COM INC.**, a Connecticut corporation; **WELLINK TRADING CO., LTD.**, a China company; **RIBBON TREE (MACAO) TRADING CO., LTD.**, a China company; **RIBBON TREE (USA) INC.**, dba **CANA-PACIFIC RIBBONS INC.**, a Washington company; **APEX DISTRIBUTING INC.**, a Washington company; **ARTECH GMBH**, a German company; **INK TEC CO. LTD.**, a Korea company; **INK TEC AMERICA CORPORATION**, a Maryland company; **DATAPRODUCTS USA LLC**, a California limited liability corporation; **GERALD CHAMALES CORP.**, dba **RHINOTEK COMPUTER PRODUCTS**, a California corporation; **MASTER INK CO., LTD.**, a Hong Kong company; **ACUJET U.S.A., INC.**, a California company; **RHINOTEK COMPUTER PRODUCTS, INC.**, a Delaware corporation,

Defendants.

SEIKO EPSON CORPORATION,

Civil No. 07-896-BR

a Japan corporation; **EPSON AMERICA, INC.**, a California corporation; and **EPSON PORTLAND INC.**, an Oregon corporation,

Plaintiffs,

v.

E-BABYLON, INC., dba
123INKJETS.COM, a California
corporation; **LINKYO CORP.**, dba
SUPERMEDIASTORE.COM, a California
corporation; **CARTRIDGES ARE US, INC.**,
a Michigan corporation; **PRINTPAL, INC.**,
an Oregon corporation,

Defendants.

SEIKO EPSON CORPORATION, a Japan
corporation; **EPSON AMERICA, INC.**, a
California corporation; and **EPSON
PORTLAND INC.**, an Oregon corporation,

Plaintiffs,

v.

INKJETMADNESS.COM, INC. dba
INKGRABBER.COM, a California
corporation; **ACECOM INC - SAN
ANTONIO**, dba **INKSELL.COM**, a Texas
corporation; **COMPTREE INC.**, dba
MERITLINE.COM, a California
corporation; **MEDIA STREET INC.**, dba
MEDIASTREET.COM, a New York
corporation,

Defendants.

Civil No. 08-0452-BR

SEIKO EPSON CORPORATION,
a Japan corporation; **EPSON AMERICA,
INC.**, a California corporation; and **EPSON
PORTLAND INC.**, an Oregon corporation,

Plaintiffs,

Civil No. 09-477-BR

v.

ABACUS 24-7 LLC, an Arizona limited liability company; **EFORCITY CORPORATION**, dba **EFORCITY.COM**, a California corporation; **R&L IMAGING GROUP, INC.**, formerly known as **IEM CONSUMABLES, INC.**, a California corporation; **XP SOLUTIONS, LLC**, dba **CLICKINKS.COM**, a Florida limited liability company; **CLICKINKS.COM, LLC**, a Florida limited liability company; **GLOBAL BUSINESS SUPPORT SYSTEMS, INC.**, dba **PRINTCOUNTRY.COM**, a Delaware corporation; **GREEN PROJECT, INC.**, a California corporation; and **JOSEPH WU**, an individual,

Defendants.

GREEN PROJECT, INC., a California corporation; and **JOSEPH WU**, an individual,

Counterclaimants,

v.

SEIKO EPSON CORPORATION, a Japan corporation; **EPSON AMERICA, INC.**, a California corporation; and **EPSON PORTLAND INC.**, an Oregon corporation; and **HERBERT W. SEITZ**, an individual,

Counter Defendants.

For the reasons set forth at the hearings held on October 3, 2011, the Court enters the following rulings:

1. **Ninestar Defendants' Motion for Leave to Amend Answer and Counterclaim to Add Defense of Patent Exhaustion**

06-236 Case (Docket No. 459): DENIED.

06-477 Case (Docket No. 397): DENIED.

07-896 Case (Docket No. 293): DENIED.

08-452 Case (Docket No. 266): DENIED.

09-477 Case (Docket No. 353): DENIED.

2. **Ninestar Defendants' Motion for Summary Judgment of Invalidity of U.S. Patent Nos. 6,502,917 and 7,008,053**

06-236 Case (Docket No. 360): DENIED with respect to '917 patent ('053 patent previously decided)

06-477 Case (Docket No. 323): DENIED with respect to '917 patent ('053 patent previously decided)

07-896 Case (Docket No. 191): DENIED with respect to '917 patent ('053 patent previously decided).

08-452 Case (Docket No. 165): DENIED with respect to '917 patent ('053 patent previously decided).

09-477 Case (Docket No. 245): DENIED with respect to '917 patent ('053 patent previously decided).

3. **Ninestar's Motion for Summary Judgment of Unenforceability of U.S. Patent Nos. 6,502,917 and 6,550,902 for Inequitable Conduct**

06-236 Case (Docket No. 351): DENIED.

06-477 Case (Docket No. 311): DENIED.

07-896 Case (Docket No. 179): DENIED.

08-452 Case (Docket No. 153): DENIED.

09-477 Case (Docket No. 234): DENIED.

4. **Epson's Motion for Partial Summary Judgment of No Inequitable Conduct or Walker Process Fraud**

06-236 Case (Docket No. 370): Motion taken under advisement with leave granted for Epson to file a 10-page supplemental memorandum on or before noon on October 11, 2011 and for Ninestar to file a 10-page supplemental opposition on or before noon October 18, 2011, for the Court's further consideration.

06-477 Case (Docket No. 326): Motion taken under advisement with leave granted for Epson to file a 10-page supplemental memorandum on or before noon on October 11, 2011 and for Ninestar to file a 10-page supplemental opposition on or before noon October 18, 2011, for the Court's further consideration.

07-896 Case (Docket No. 204): Motion taken under advisement with leave granted for Epson to file a 10-page supplemental memorandum on or before noon on October 11, 2011 and for Ninestar to file a 10-page supplemental opposition on or before noon October 18, 2011, for the Court's further consideration.

08-452 Case (Docket No. 179): Motion taken under advisement with leave granted for Epson to file a 10-page supplemental memorandum on or before noon on October 11, 2011 and for Ninestar to file a 10-page supplemental opposition on or before noon October 18, 2011, for the Court's further consideration.

09-477 Case (Docket No. 252): Motion taken under advisement with leave granted for Epson to file a 10-page supplemental memorandum on or before noon on October 11, 2011 and for Ninestar to file a 10-page supplemental opposition on or before noon October 18, 2011, for the Court's further consideration.

5. **Construction of "compressingly contained" in the asserted claims of U.S. Patent No. 5,158,377**

The Court hereby defers construction of the term "compressingly contained" in the asserted claims of U.S. Patent. Nos. 5,158,377 until after the parties have briefed their respective positions in or with the expert reports due on November 4, 2011, and deposed the opposing experts on this issue. *See* Court Rec. 265. The Court will set a hearing date for construction of this term, and may request briefing from the parties on this issue.

6. **Case Management Schedule**

The Court hereby orders the parties to file a joint case management schedule on or before October 24, 2011. The Court will thereafter finalize the case management schedule at the conclusion of a telephonic conference with the parties on October 26, 2011 at 9:00 a.m. Jury trial shall be held March 26 through April 13, 2012. Phase I of the trial will regard infringement of the '377 patent. Phase II, to the same jury, will be on validity of the '377, '053 and '917 patents, and the issues of damages and willfulness of any infringement found by the jury with respect to the '377 patent, as well as the issues of damages and willfulness of the infringement of the '053 and '917 patents. The pretrial conference is set for March 19-20, 2012, with pretrial filings due February 29, 2012.

7. **Epson's Motion to Exclude Certain Opinions and Testimony of Ross N. Mills, Ph.D.**

06-236 Case (Docket No. 357): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

06-477 Case (Docket No. 317): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

07-896 Case (Docket No. 185): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

08-452 Case (Docket No. 159): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

09-477 Case (Docket No. 238): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

8. **Epson's Motion to Exclude Opinions and Testimony of Dr. Adrienne Lavine**

06-236 Case (Docket No. 366): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

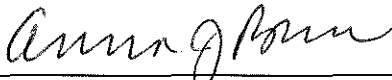
07-896 Case (Docket No. 196): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

08-452 Case (Docket No. 168): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

09-477 Case (Docket No. 247): DENIED as premature with leave to renew at the pretrial conference. Plaintiff is directed to file a summary prior to or at the time of the pretrial conference restating its position, with a reference back to Plaintiff's original filing.

IT IS SO ORDERED.

Dated this 26th day of October, 2011.



ANNA J. BROWN
United States District Judge